

CHARTER
OF THE
Town of Indian Head

CHARLES COUNTY, MARYLAND

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INDIAN HEAD

ARTICLE I General Provisions

Section C1-1. Corporate Existence.

The inhabitants of the Town of Indian Head within the corporate limits legally established from time to time are hereby constituted and continued as a body corporate by the name of the "Town of Indian Head," with all the privileges of a body corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common Seal and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated.

Section C1-2. Town boundaries.

The corporate limits or boundaries of the Town of Indian Head, until changed or re-adopted by the Town Council in accordance with law, are the same as prior to the adoption of this Charter.

ARTICLE II The Council

Section C2-1. Membership; election; terms.

All legislative powers of the town shall be vested in a Council consisting of three (3) members who shall be elected as hereinafter provided and who shall hold office for terms of two (2) years or until the succeeding Council takes office, except that members of the Council elected on the first Tuesday in May, 2011, and thereafter, shall hold office for terms of four (4) years or until the succeeding Council takes office. Newly elected Council members shall take office on the second Monday in May or seven (7) days following election, whichever occurs last. (Res. No. 01-01-11, 3-29-11.)

Section C2-2. Qualifications.

Council members shall have resided in the town for at least six (6) months immediately preceding their election and shall be qualified voters of the town. Council members shall maintain permanent residence in the town during their term of office.

Section C2-3. Compensation.

The Mayor and Council members shall receive annual compensation set by ordinance. However, the compensation set for the Mayor and Council members shall not be changed for the

Mayor or members of Council during the term in which the compensation is set. (Res. No. 03-02-11, 5-24-11.)

Section C2-4. Meetings.

The newly elected Council shall meet on the first Monday following its election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. All open meetings shall be held in a public place within the town, except those times when extraordinary citizen attendance requires a larger meeting facility, which, with the consent of the majority of the Council, may be located outside the town. Any such change in location shall require reasonable advance public notice. Special meetings shall be called at the request of the Mayor or a majority of the Council members. All meetings of the Council shall be open to the public, and the rules of the Council shall provide that residents of the town shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question. Nothing contained herein shall be construed to prevent any such body from holding a closed session as authorized by the Maryland Open Meetings Act from which the public is excluded, but no ordinance, resolution, rule or regulation shall be finally adopted at such a closed session. (Res. No. 03-02-11, 5-24-11.)

Section C2-5. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their offices. A member charged with conduct constituting grounds for forfeiture of the member's office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one (1) or more newspapers of general circulation in the town at least one (1) week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the court.

Section C2-6. Organization.

Following a regular municipal election, the Council member receiving the highest number of votes shall be the Mayor of the town. The Council member receiving the second highest number of votes shall be the Vice Mayor, to preside in the absence of the Mayor. Should the newly elected Council member qualifying under the terms of this Charter for the position of Mayor or Vice Mayor decline the same, the selection for either office shall be made by a majority vote of the Council at the next regular meeting of the Council held after the Council member declines the position. In the event that the Mayor and Vice Mayor should be absent at any meeting of the Council, any member of the Council may be designated Mayor Pro Tem for such meeting. (Res. No. 03-02-11, 5-24-11.)

Section C2-7. Powers and duties of Mayor.

The Mayor or, in his absence, disqualification or incapacity, the Vice Mayor or Mayor Pro Tem shall perform the following functions:

A. He shall preside at all meetings of the Council and perform all duties consistent with his office and shall have a voice and vote in the proceedings of the Council but no veto power. He shall vote last upon the roll call of the Council.

B. He shall be recognized as the head of the town government for all ceremonial purposes, by the courts for serving civil processes and by the Governor for the purpose of military law.

C. He shall exercise such other powers and perform such other duties as are or may be conferred and imposed upon him by this Charter and the ordinances of the town.

Section C2-8. Quorum.

A majority of the members of the Council shall constitute a quorum for the transaction of business, but no resolution or ordinance shall be approved nor any other action taken unless approved by a majority of the Council.

Section C2-9. Rules and procedures.

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings and enter therein the yeas and nays upon final action on any question, resolution or ordinance or at any other time if required by any one (1) member. The journal shall be open to public inspection. A separate journal of all resolutions and ordinances passed by the Council shall be maintained by the Town Clerk and shall be open for public inspection. (Res. No. 03-04-11, 5-24-11.)

Section C2-10. Vacancies.

A. The office of a Council member shall become vacant upon the member's death, resignation, removal from office in any manner authorized by law or forfeiture of the member's office.

B. Upon occurrence of a vacancy in the Council, the remaining members of the Council shall appoint a qualified person to fill the vacancy. If the Council fails to do so with [within] thirty (30) days following the occurrence of the vacancy, the Board of Supervisors of Elections shall call a special election to fill the vacancy, to be held not sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy and to be otherwise governed by the provisions of this Charter, notwithstanding the requirements of this subsection. (Res. No. 03-02-11, 5-24-11.)

Section C2-11. Forfeiture of office.

The Mayor or a Council member shall forfeit that person's office if the Mayor or Council member lacks at any time during that person's term of office any qualification for the office prescribed by this Charter or by law, violates any express prohibition of this Charter, is convicted

of a felony or fails to attend three (3) consecutive regular meetings of the Council without being excused by the Council.

Section C2-12. Powers and duties.

A. *General powers.* The Council shall have the general power to pass all such ordinances not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein.

B. *Specific powers listed.* The Council shall have, in addition, the power to pass ordinances, not contrary to the laws and Constitution of this State, for the following specific purposes:

(1) *Advertising:* to provide for advertising for the purposes of the town, for printing and publishing statements as to the business of the town.

(2) *Aisles:* to regulate and prevent the obstruction of aisles in public halls, churches and places of amusement and to regulate the construction and operation of the doors and means of egress therefrom.

(3) *Amusements:* to provide in the interest of the public welfare for licensing, regulating or restraining theatrical or other public amusements.

(4) *Appropriations:* to appropriate municipal moneys for any purpose within the powers of the Council.

(5) *Auctioneers:* to regulate the sale of all kinds of property at auctions within the town and to license auctioneers.

(6) *Band:* to establish a municipal band, symphony orchestra or other musical organization and to regulate, by ordinance, the conduct and policies thereof.

(7) *Billboards:* to license, tax and regulate, restrain or prohibit the erection or maintenance of billboards within the town and the placing of signs, bills and posters of every kind and description on any building, fence, post, billboard, pole or other place within the town.

(8) *Bridges:* to erect and maintain bridges.

(9) *Buildings:* to make reasonable regulations in regard to buildings and signs to be erected, constructed or reconstructed in the town and to grant building permits for the same; to formulate a Building Code and a Plumbing Code and to appoint a Building Inspector and a Plumbing Inspector and to require reasonable charges for permits and inspections; and to

authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof, in whole or in part, when dangerous or insecure and to require that such buildings and structures be made safe or be taken down.

(10) *Cemeteries*: to regulate or prohibit the interment of bodies within the town and to regulate cemeteries.

(11) *Codification*: to provide for the codification of all ordinances which have been or may hereafter be passed.

(12) *Community services*: to provide, maintain and operate community and social services for the preservation and promotion of the health, recreation, welfare and enlightenment of the inhabitants of the town.

(13) *Cooperative activities*: to make agreements with other municipalities, counties, districts, bureaus, commissions and governmental authorities for the joint performance of or for cooperation in the performance of any governmental functions.

(14) *Curfew*: to prohibit the youth of the town from being in the streets, lanes, alleys or public places at unreasonable hours of the night.

(15) *Dangerous conditions*: to compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.

(16) *Department*: to create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter, and to assign additional functions or duties to offices, departments or agencies established by this Charter, but not including the power to discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

(17) *Disorderly houses*: to suppress bawdy houses, disorderly houses and houses of ill fame.

(18) *Dogs*: to regulate the keeping of dogs in the town and to provide, wherever the county does not license or tax dogs, for the licensing and taxing of the same, and to provide for the disposition of homeless dogs and dogs on which no license fee or taxes are paid.

(19) *Elevators*: to require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.

(20) *Explosives*: to regulate or prevent the storage of gunpowder, oil or any other explosive or combustible matter and to regulate or prevent the use of firearms, fireworks, bonfires, explosives or any other similar things which may endanger persons or property.

(21) *Filth*: to compel the occupant of any premises, building or structure situated in the town, when the same has become filthy or unwholesome, to abate or cleanse the condition and, after reasonable notice to the owners or occupants, to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.

(22) *Finances*: to levy, assess and collect ad valorem property taxes; to expend municipal funds for any public purpose; and to have general management and control of the finances of the town.

(23) *Fire*: to suppress fires and prevent the dangers thereof and to establish and maintain a Fire Department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards; to issue regulations concerning fire hazards and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire hazard regulations are met; to install and maintain fireplugs where and as necessary and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

(24) *Food*: to inspect and require the condemnation of, if unwholesome, and to regulate the sale of any food products.

(25) *Franchises*: to grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, companies providing cable and fiber-optic telecommunications services, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions of Article 23 of the Annotated Code of Maryland. No franchise shall be granted for a longer period than fifty (50) years.

(26) *Gambling*: to restrain and prohibit gambling.

(27) *Garbage*: to prevent the deposit of any unwholesome substance either on private or public property and to compel its removal to designated points and to require slops, garbage, ashes and other waste or other unwholesome materials to be removed to designated points or to require the occupants of the premises to place them conveniently for removal.

(28) *Grants-in-aid*: to accept gifts and grants of federal or State funds from the federal or State governments or any agency thereof and to expend the same for any lawful public purpose agreeable to the conditions under which the gifts or grants were made.

(29) *Hawkers*: to license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers and all other persons selling any articles on the streets of the town and to revoke such licenses for cause.

(30) *Health*: to protect and preserve the health of the town and its inhabitants; to appoint a public health officer and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations and to

authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; and to inspect, regulate and abate any buildings, structures or places which cause or may cause unsanitary conditions or conditions detrimental to health, provided that nothing herein shall be construed to affect in any manner any of the powers and duties of the State Board of Health, the County Board of Health or any public general or local law relating to the subject of health.

(31) *House numbers*: to regulate the numbering of houses and lots and to compel owners to renumber the same or, in default thereof, to authorize and require the same to be done by the town at the owner's expense, such expense to constitute a lien upon the property, collectible as tax moneys.

(32) *Jail*: to establish and regulate a station house or lockup for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purpose.

(33) *Licenses*: subject to any restrictions imposed by the public general laws of the State, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise or services; to license and regulate any business, occupation, trade, calling or place of amusement or business; and to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.

(34) *Liens*: to provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon such property, to be collected as municipal taxes are collected.

(35) *Lights*: to provide for the lighting of the town.

(36) *Livestock*: to regulate and prohibit the running at large of cattle, horses, swine, fowl, sheep, goats, dogs, or other animals and to authorize the impounding, keeping, sale and redemption of such animals when found in violation of the ordinance in such cases provided.

(37) *Markets*: to obtain by lease or rent, own, construct, purchase, operate and maintain public markets within the town.

(38) *Minor privileges*: to regulate or prevent the use of public ways, sidewalks and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements and display of goods, wares and merchandise.

(39) *Noise*: to regulate or prohibit unreasonable ringing of bells, crying of goods or sounding of whistles and horns.

(40) *Nuisances*: to prevent or abate by appropriate ordinances all nuisances [nuisances] in the town which are so defined at common law, by this Charter or by the laws of the State of Maryland, whether the same be herein specifically named or not, and to regulate, to

prohibit, to control the location of or to require the removal from the town of all trading in, handling of or manufacture of any commodity which is or may become offensive, obnoxious or injurious to the public comfort or health. In this connection, the town may regulate, prohibit, control the location of or require the removal from the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries and renderies. This listing is by way of enumeration, not limitation.

(41) *Obstructions*: to remove all nuisances and obstructions from the streets, lanes and alleys and from any lots adjoining thereto or any other places within the limits of the town.

(42) *Parking facilities*: to license and regulate and to establish, obtain by purchase, by lease or by rent, own, construct, operate and maintain parking lots and other facilities for off-street parking.

(43) *Parking meters*: to install parking meters on the streets and public places of the town in such places as it shall, by ordinance, determine and by ordinance prescribe rates and provisions for the use thereof, except that the installation of parking meters on any street or road maintained by the Maryland State Highway Administration must first be approved by the Highway Administration.

(44) *Parks and recreation*: to establish and maintain public parks, gardens, playgrounds and other recreational facilities and programs to promote the health, welfare and enjoyment of the inhabitants of the town.

(45) *Police force*: to establish, operate and maintain a police force. All town policemen shall, within the municipality, have the powers and authority of constables in this state [State].

(46) *Police powers*: to prohibit, suppress and punish within the town all vice, gambling and games of chance; prostitution and solicitation therefor and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; and all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity and drunkenness.

(47) *Property*: to acquire, by conveyance, purchase or gift, real leasable property for any public purposes; to erect buildings and structures thereon for the benefit of the town and its inhabitants; to convey any real or leasehold property when no longer needed for the public use, after having given at least twenty (20) days' public notice of the proposed conveyance; and to control, protect and maintain public buildings, grounds and property of the town.

(48) *Quarantine*: to establish quarantine regulations in the interests of the public health.

(49) *Regulations*: to adopt by ordinance and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, traffic, speed, parking and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.

(50) *Sidewalks*: to regulate the use of sidewalks and all structures in, under or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from snow or other obstructions; and to prescribe hours for cleaning sidewalks.

(51) *Sweepings*: to regulate or prevent the throwing or depositing of sweepings, dust, ashes, offal, garbage, paper handbills, dirty liquids or other unwholesome materials into any public way or onto any public or private property in the town.

(52) *Taxicabs*: to license, tax and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters and expressmen and all other persons pursuing like occupations.

(53) *Vehicles*: to regulate and license wagons and other vehicles not subject to the licensing powers of the State of Maryland.

(54) *Voting machines*: to purchase, lease, borrow, install and maintain voting machines for use in town elections.

(55) *Zoning*: to exercise the powers as to planning and zoning conferred upon municipal corporations generally in Article 66B of the Annotated Code of Maryland, subject, however, to the limitations and provisions of said Article.

C. *Saving clause*. The enumeration of powers in this section is not to be construed as limiting the powers of the town to the several subjects mentioned.

D. *Exercise of powers*. For the purpose of carrying out the powers granted in this section or elsewhere in this Charter, the Council may pass all necessary ordinances. All the powers of the town shall be exercised in the manner prescribed by this Charter or, if the manner is not prescribed, then in such manner as may be prescribed by ordinance. (Res. No. 03-02-11, 5-24-11.)

Section C2-13. Prohibitions.

A. *Other employment*. Except where authorized by law, no Council member shall hold any other compensated town office or employment during the term for which the member was elected to the Council nor for one (1) year following the expiration of the member's term of office.

B. *Bids and contracts*. It shall be unlawful for any Council member to bid or enter into or be in any way financially interested in a contract for the working of any public road or street, the construction or building of any bridge, the erecting or building of any house or for the performance of any other public work in which said officer was a party to the letting.

C. *Conflict of interests.* No Council member or other town officer or employee shall purchase supplies, goods or materials for public use from any firm or corporation in which the member is either directly or indirectly financially interested nor in any manner share in the proceeds of such purchase, nor shall the town pay for such supplies, goods or materials so purchased.

Section C2–14. Ordinances.

A. *Procedure.* No ordinance shall be passed at the meeting at which it is introduced. At any regular or special meeting of the Council held no less than six (6) nor more than sixty (60) days after the meeting at which any ordinance was introduced, it shall be passed or passed as amended or rejected or its consideration deferred to some specified future date. In cases of emergency, the provision that an ordinance may not be passed at the meeting at which it is introduced may be suspended by the affirmative vote of two-thirds (2/3) of the Council. Every ordinance, unless it is passed as an emergency ordinance, shall become effective at the expiration of twenty (20) calendar days following passage by the Council.

B. *Action requiring an ordinance.*

(1) In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Council shall be by ordinance which:

(a) Adopt or amend an Administrative Code or establish, alter or abolish any town department, office or agency.

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed.

(c) Levy taxes, except as otherwise provided with respect to the property tax levied by adoption of the budget.

(d) Grant, renew or extend a franchise.

(e) Regulate the rate charged for its services for public utility.

(f) Authorize the borrowing of money.

(g) Purchase, convey or lease or authorize the purchase, conveyance or lease of any lands of the town.

(h) Amend or repeal any ordinance previously adopted, except as otherwise provided with respect to repeal of ordinances reconsidered under the referendum power.

(2) This subsection is not to be construed as limiting ordinance requirements to the several subjects listed.

C. *Emergency ordinances.* To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes; grant, renew or extend a franchise; or regulate the rate charged by any public utility for its services. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of three (3) members of the Council shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this Charter if the emergency still exists. An emergency ordinance may also be repealed by an adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

D. *Enforcement.* To ensure observance of the ordinances of the town, the Council shall have [the] power to provide that violation thereof shall be a misdemeanor and shall have the power to affix thereto penalties of a fine not to exceed one thousand dollars (\$1,000) or imprisonment for not exceeding six (6) months, or both such fine and imprisonment, or to provide that violation thereof shall be a municipal infraction and shall have the power to affix thereto penalties of a fine not to exceed one thousand dollars (\$1,000) for a first offense and one thousand Dollars (\$1,000) for repeat offenders. Any person subject to any fine, forfeiture or penalty by virtue of and ordinance passed under the authority of this Charter shall have the right of appeal to the appropriate court in the county in which the fine, forfeiture or penalty was imposed, pursuant to the Annotated Code of the State of Maryland. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to conviction for a continuation of the offense subject to the first or any succeeding conviction.

E. *Referendum.*

(1) *Powers.* The qualified voters of the town shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a town election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes, except as provided in § C5-13C of this Charter.

(2) *Commencement of proceedings: petitioners' committee; affidavit.* Any ten (10) qualified voters may commence referendum proceedings by filing with the Town Clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and

specifying the address to which all notices to the committee are to be sent and setting out, in full, the proposed ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee is filed, the Town Clerk shall issue the appropriate petition blanks to the petitioners' committee.

(3) *Petitions.*

(a) *Number of signatures.* Referendum petitions must be signed by qualified voters of the town equal in number to at least twenty per centum (20%) of the total number of qualified voters registered to vote at the last regular town election.

(b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) *Time for filing referendum petitions.* Referendum petitions must be filed within twenty (20) calendar days after adoption by the Council of the ordinance sought to be reconsidered.

(4) *Procedure after filing.*

(a) *Certificate of Town Clerk; amendment.* Within twenty (20) days after the petition is filed, the Town Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Town Clerk within two (2) days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of Subsection E(3)(b) and (c), and, within five (5) days after it is filed, the Town Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail, as in the case of an original petition. If a petition or amended petition is certified sufficient or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under Subsection E(4)(b) of this section within the time required, the Town Clerk shall promptly present the Clerk's certificate to

the Council, and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) *Council review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

(c) *Court review; new petition.* A final determination as to the sufficiency of a petition shall be subject to a court review at the initiative of the petitioners' committee.

(5) *Referendum petitions; suspension of effect of ordinance.* When a referendum petition is filed with the Clerk of Council, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition;
- (b) The petitioners' committee withdraws the petition;
- (c) The Council repeals the ordinance; or
- (d) Immediately after a popular vote affirming the ordinance in question.

(6) *Action on petitions.*

(a) *Action by Council.* When a referendum petition has been finally determined sufficient, the Council shall promptly reconsider the referred ordinance. If the Council fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the referred ordinance to the voters of the town.

(b) *Submission to voters.* The vote of the town on a referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final Council vote thereon. If no regular town election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available to the voters no less than ten (10) days prior to the election.

(7) *Withdrawal of petitions.* Referendum petitions may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the town by filing with the

Town Clerk a request for withdrawal signed by at least eight (8) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect, and all proceedings thereon shall be terminated.

(8) *Results of election.* If a majority of the qualified voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results. (Res. No. 02-02-04, 3-23-04; Res. No. 03-04-11, 5-24-11.)

C2-15. Town Clerk.

There shall be a Town Clerk appointed by the Town Council who shall serve at the pleasure of the Council under the direct supervision of the Town Manager. The Town Clerk shall be subject to discipline by the Town Manager with the approval of the Council. The compensation of the Town Clerk shall be determined by the Town Manager, subject to the appropriation of sufficient funds in the town budget. The Town Clerk shall attend all regular meetings of the Council and such other meetings of the Council as required by the Council and keep full and accurate account of the proceedings of the Council. The Town Clerk shall have such other powers and duties as are specified by this Charter, by ordinance, or by the Council or Town Manager not inconsistent with this Charter or an ordinance. (Res. No. 03-04-11, 5-24-11.)

ARTICLE III Elections

Section C3-1. Regular elections.

The election for all elective town officers shall be held on the first Tuesday in May at a place to be designated by the Council.

Section C3-2. Qualification of voters.

Every person who is a citizen of the United States, is at least eighteen (18) years of age, resides in the town at least thirty (30) days preceding a town election and is registered in accordance with the provisions of this Charter and town ordinances shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town elections.

Section C3-3. Board of Supervisors of Elections.

A. *Appointment.* There shall be a Board of Supervisors of Elections consisting of three (3) members who shall be appointed by the Town Council on or before the first Monday in March in every year in which an election is to be held for the election of council members as provided in § C3-8. The terms of members of the Board of Supervisors of Elections shall begin on the second Monday in March in the year in which they are appointed and shall run for four (4) years. Members of the Board of Supervisors of Elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their terms of office. The Board shall appoint one (1) of its members as Chairman. Vacancies on the Board shall be filled by the

Town Council for the remainder of the unexpired term. The compensation of the members of the Board shall be determined by the Council. The Town Council shall appoint two (2) substitute members to the Board of Supervisors of Elections. The terms of office of the substitute members will be the same as for the members of the Board of Supervisors of Elections.

B. *Removal.* Any member of the Board of Supervisors of Elections may be removed for good cause by the Council. Before removal, the member of the Board of Supervisors of Elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the Council, if he so requests, within ten (10) days after receiving the written copy of the charges against him.

C. *Duties.* The Board of Supervisors of Elections shall be in charge of the registration of voters, nominations and all town elections. The Board may appoint election clerks or other employees to assist it in any of its duties. (Res. No. 03-01-11, 5-24-11.)

Section C3-4. Notice of election.

The Board of Supervisors of Elections shall give at least two (2) weeks' notice of every election by an advertisement published in at least one (1) newspaper of general circulation in the town and by posting a notice thereof in some public place or places in the town.

Section C3-5. Voter registration.

Any person who has his domicile in the town and is entitled by law to register to vote in Charles County elections shall be entitled to register to vote in town elections. Registration of voters shall be permitted in the town offices during regular office hours every day such offices are open and at such other times and places as the Council may establish from time to time by resolution, except that registration shall not be permitted within thirty (30) days immediately prior to any general or special town election, excluding runoff elections, in which case the same voter registration list used in the regular general or special election causing the runoff election shall be used. In addition to registration at the town offices, any person who has his domicile within the town may register to vote in town elections by registering to vote in Charles County elections, provided that such registration must reflect that the registrant has a residential address located within the incorporated limits of the town on voting registration records with Charles County more than thirty (30) days prior to the date of the town election at which such person seeks to vote. The Board of Supervisors of Elections is authorized to strike from the registration lists any person who has died or who has become ineligible to vote in town elections or who has not voted in a town election, general, primary, special or referendum within the five (5) preceding calendar years. Registration of any person shall be permanent until stricken pursuant hereto. Every person who has his domicile in the town and has registered to vote in town elections pursuant to this section shall be a qualified voter of the town.

Section C3-6. Appeals.

If any person shall feel aggrieved by the action of the Board of Supervisors of Elections in refusing to register or on striking off the name of any person or by any other action, such

person may appeal to the Council. Any decision or action of the Council upon such appeal may be appealed to the Circuit Court for the county within thirty (30) days of the decision or action of the Council.

Section C3–7. Nominations.

Persons may be nominated for elective office in the town by filing a certificate of nomination signed by five (5) registered voters in the town.

A. such [Such] certificate shall state the following:

- (1) The office for which the candidate is seeking nomination.
- (2) The name of the candidate.
- (3) A statement that the signers of the certificate are registered voters.
- (4) The signers support of the nomination of the named candidate.

B. The certificate shall be filed with the Town Clerk at least thirty (30) calendar days prior to the election.

C. No person shall file for nomination to more than one (1) elective town public office or hold more than one (1) elective town public office at any one (1) time. (Res. No. 03-04-11, 5-24-11.)

Section C3–8. Election of Council.

All Council members shall be elected at large. Every voter shall be entitled to vote for candidates equal to the number of vacancies to be filled. The voters of the town shall elect three (3) Council members on the first Tuesday in May in each odd-numbered year, except that Council members shall be elected every four (4) years beginning with the election conducted on the first Tuesday in May, 2011. (Res. No. 01-01-11, 3-29-11.)

Section C3–9. Conduct of elections.

It shall be the duty of the Board of Supervisors of Elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots and/or voting machines. The ballots and/or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind. The Board of Supervisors of Elections shall keep the polls open from 8:00 a.m. until 8:00 p.m. on election days or for longer hours if the Council requires it.

Section C3–10. Absentee ballots.

The Council shall make provisions by ordinance for the casting of ballots in municipal elections by absentee ballots. These provisions shall define the circumstances in which qualified voters of the town may vote by absentee ballot; establish procedures governing the application for an absentee ballot; prescribe the form of absentee ballots; regulate the manner and timeliness of casting of absentee ballots; and regulate other matters relating to the casting of ballots in municipal elections by absentee ballots as the Council deems appropriate and not inconsistent with other provisions of this Charter or State law.

Section C3-11. Special elections.

All special town elections shall be conducted by the Board of Supervisors of Elections in the same manner and with the same personnel, as far as practicable, as regular town elections.

Section C3-12. Vote count.

The Board of Supervisors of Elections shall begin counting the votes immediately after the polls have closed. All votes shall be counted, to include the regular ballot and absentee ballots. Once the actual vote count begins, no person shall enter or leave the room in which the vote count is being conducted until completion of the vote count. The Board of Supervisors of Elections shall complete the vote count within twenty-four (24) hours after the polls have closed, shall determine the number of votes cast for each candidate and shall certify this result to the Town Clerk of the town, who shall record the result in the minutes of the Council. The three candidates for election to the vacancies as Council members with the highest number of votes shall be declared elected. If two or more candidates are tied with the highest number of votes for Council member, the tie shall be decided by a special election between all candidates who received the same number of votes. A tie vote between candidates for Council member receiving the second or third highest number of votes shall be decided by a method mutually agreeable to all candidates receiving the same number of votes. If the candidates are not able to agree on a method to break the tie, the tie vote shall be decided by special election between the tied candidates. Any special election under this section shall be held within thirty (30) days after the Board of Election Supervisors certifies the votes of the previous election. (Res. No. 03-01-11, 5-24-11.)

Section C3-13. Preservation of results.

All absentee ballots and all records used in any town election shall be preserved for at least six (6) months from the date of the election.

Section C3-14. Regulation and control.

The Council shall have the power to provide by ordinance in every respect not covered by the provisions of this Charter for the conduct of registration, nomination and elections and for the prevention of fraud in connection therewith and for a recount of ballots in case of doubt or fraud.

Section C3–15. Violations and penalties.

Any person who fails to perform any duty required of him under the provisions of this Article or any ordinance passed thereunder, in any manner willfully or corruptly violates any of the provisions of this Article or any ordinance passed thereunder or willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or election shall be deemed guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately, upon conviction thereof, cease to hold such office or employment.

ARTICLE IV

Town Manager

Section C4–1. Appointment; qualifications.

The Council shall appoint an officer whose title shall be “Town Manager” and who shall be the chief executive officer and the head of the administrative branch of the town government. The Town Manager shall be chosen by the Council solely on the basis of his actual experience in or his knowledge of accepted practice in respect to the duties of his office, as hereinafter outlined. At the time of his appointment, he need not be a resident of the town or State, but during his tenure of office he shall reside within the town. No person elected to membership on the Council shall, subsequent to such election, be eligible for appointment as Town Manager until one (1) year has elapsed following the expiration of the term for which he was elected.

Section C4–2. Powers and duties.

The Town Manager shall have the following powers and duties:

A. He shall appoint and, when he deems it necessary for the good of the service, suspend or remove all town employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer’s department, office or agency.

B. He shall direct and supervise the administration of all departments, offices and agencies of the town, except as otherwise provided by this Charter or by law.

C. He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

D. He shall see that all laws, provisions of this Charter and acts of the Council subject to enforcement by him or by officers subject to his direction and supervision are faithfully executed.

E. He shall prepare and submit the annual budget and capital program to the Council.

F. He shall make such reports as the Council may require concerning the operations of town departments, offices and agencies subject to his direction and supervision.

G. He shall keep the Council fully advised as to the financial condition and future needs of the town and make such recommendations to the Council concerning the affairs of the town as he deems desirable.

H. He shall perform such other duties as are specified in this Charter or as may be required by the Council.

Section C4-3. Compensation.

The Town Manager shall receive such monetary and non-monetary compensation as determined by the Council. (Res. No. 03-03-11, 5-24-11.)

Section C4-4. Removal.

The Town Manager serves at the pleasure of the Council and may be removed from office by the affirmative vote of a majority of the Council.

Section C4-5. Acting Town Manager.

The Council may designate a qualified person as Acting Town Manager to exercise the power and perform the duties of the Town Manager during any temporary absence or disability of the Town Manager. The Council may revoke such designation at any time and appoint another qualified person as Acting Town Manager. (Res. No. 03-03-11, 5-24-11.)

Section C4-6. Interference by Council.

A. *Council's powers.* Except as provided in this Charter, neither the Council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Town Manager anything pertaining to the appointment and removal of such officers and employees.

B. *Council's procedures.* Except for the purpose of inquiries and investigations as provided in this Charter, the Council or its members shall deal with town officers and employees who are subject to the direction and supervision of the Town Manager solely through the Town Manager, and neither the Council nor its members shall give orders to any such officer or employee either publicly or privately. (Res. No. 03-03-11, 5-24-11.)

Section C4-7. Purchasing and contracts.

A. *Policy.* It shall be the policy of the Council to assure that purchases are made at the best value consistent with the requirements of the town.

B. *Purchases.* It shall be the duty of the Town Manager to control the purchase, storage and distribution of all supplies, materials, equipment and contractual services required by the Town Government or any officer thereof; to establish and enforce standard specifications with respect to such supplies, materials and equipment and to determine their quality, quantity and conformance with specification; and to transfer to or between town officers or departments or to sell surplus, obsolete or unused supplies, materials and equipment in such a manner as the Council may establish by ordinance. The Town Manager shall provide an opportunity for competition under such rules and regulations and with such exceptions as the Council may prescribe by ordinance before making any purchase or contract for supplies, materials, equipment or contractual services.

C. *Competitive bids.* All expenditures for supplies, materials, equipment or contractual services, except professional and legal services, involving more than fifteen thousand dollars (\$15,000.) shall be awarded by the Council on the basis of competitive bids. The Council may prescribe competitive bid procedures by ordinance, and such procedures may authorize participation with other agencies in the joint taking of bids and award of purchases. The purchase or contract awards shall be made to the bidder submitting the best responsible bid, in the judgment of the Council, after consideration of all factors, including price, quality of goods or services offered, time of delivery and responsibility of bidder. All contracts may be protected by such bonds, penalties and conditions as the Council may require. Notwithstanding the requirements of this subsection, where the Council reasonably determines that there is only one (1) source available which can furnish particular supplies, materials or equipment, the Council may award a contract for the provision of such supplies, materials or equipment on the basis of a negotiated purchase.

D. *Legal services.* The Council shall have the authority to enter into agreements for the provision of legal services to the town.

E. *Professional services.* Contracts for professional services, including but not limited to, engineering, architectural, accounting, financial and auditing, shall be made on the basis of requests for proposals in accordance with such procedures as the Council may establish by ordinance.

F. *Emergency situations.* An emergency shall be deemed to exist during a natural disaster, as determined by the Council, and when a breakdown of machinery or equipment threatens or terminates essential service to the public. During an emergency the Town Manager shall make the necessary arrangements for the provision of supplies, materials, equipment and services without the necessity of compliance with the requirements of this section or any ordinance adopted by the Council pursuant to the authority granted by this section.

ARTICLE V Finance

Section C5-1. Finance Officer.

A. There shall be a Finance Officer appointed by the Town Manager with the consent of the Council. The Finance Officer shall be under the direct supervision of the Town Manager, shall be subject to discipline by the Town Manager, and shall serve at the pleasure of the Town Manager. The compensation of the Finance Officer shall be determined by the Town Manager, subject to the appropriation of sufficient funds in the town budget. The Finance Officer shall be the chief financial officer of the town in charge of the administration of the financial affairs of the town.

B. *Powers and duties.* The Finance Officer is authorized and directed:

(1) To assist the Town Manager with the preparing of the budget as outlined in § C5-3A, B, C and D and to assist in its execution after authorization by the Council as required in § C5-3E.

(2) To maintain accounting control over the finances of the town government, for which purpose the incumbent is empowered to operate a set of general accounts embracing all the financial transactions of the town and such subsidiary accounts and cost records as may be required by ordinance or by the Town Manager for purposes of administrative direction and financial control.

(3) To prescribe the forms of receipts, vouchers, bills or claims to be filed by all departments and agencies of the town government.

(4) To examine and review all contracts, orders and other documents by which the town incurs financial obligations and, having ascertained before approval that moneys have been duly appropriated or allocated to meet such obligations and will become available when the obligations have become due and payable, to audit and approve the bills, invoices, payrolls and other evidences of claims, demands or charges against the town government and to determine the regularity, legality and correctness of such claims, demands or charges.

(5) To make monthly reports of all receipts and expenditures of the town government to the Council and Town Manager and to make monthly reports on funds, appropriations, allotments, encumbrances and authorized payments to the Council and Town Manager and the office directly concerned.

(6) To perform such other duties pertaining to the financial records of the town government as the Council may require by ordinance.

(7) To collect, receive, have custody of and disperse all taxes, licenses, fees and other moneys belonging to the town government, subject to the provisions of this Charter and ordinances enacted thereunder; to have custody of all investments and invested funds of the

town or in possession of the town in a fiduciary capacity and to keep a record of such investments; and to have custody of all bonds and certificates of town indebtedness, including such bonds and certificates unissued or canceled, and the receipt and delivery of town bonds and certificates for transfer, registration or exchange. (Res. No. 03-03-11, 5-24-11.)

Section C5-2. Fiscal year.

The fiscal year of the town government shall begin on the first day of July and shall end on the last day of June. Such year shall constitute the budget year of the town government.

Section C5-3. Budget.

A. *Submission of budget.* On or before April 1 of each year, the Town Manager shall submit to the Council a proposed budget for the ensuing fiscal year and an accompanying message.

B. *Budget message.* The Town Manager's message shall explain the budget, both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the town for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures and revenues, together with the reasons for such changes; summarize the town's debt position; and include such other material as the Town Manager deems desirable.

C. *Contents of budget.* The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Town Manager deems desirable or the Council may require. In organizing the budget, the Town Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for estimated income and expenditures of the current fiscal year.

(1) It shall indicate in separate sections:

(a) The proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.

(b) The proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure.

(2) The total of proposed expenditures shall not exceed the total of estimated income and applied surplus, if any.

D. *Council action on budget.*

(1) *Notice and hearing.* The council shall publish in one (1) or more newspapers of general circulation in the town a notice stating:

(a) The times and places where copies of the message and budget are available for inspection by the public.

(b) The time and place for a public hearing on the budget.

(2) *Amendment before adoption.* After the public hearing, the Council may adopt the budget by ordinance, with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income or applied surplus, if any.

(3) *Adoption.* The Council shall adopt the budget on or before the 30th day of June of the fiscal year currently ending.

(4) *Extension.* If the budget is not adopted by July 1, a majority vote of the Council shall be necessary to extend the current budget for a single thirty-day period. Expenditures for that period shall not exceed one-twelfth (1/12) of the annual expenses of the current year.

E. *Budget Ordinance.* The adopted budget shall be in the form of an ordinance appropriating funds for the ensuing fiscal year. Funds shall be appropriated to each of the various departments, offices, agencies or functions. The Budget Ordinance shall also include a summary of estimated income for the ensuing fiscal year and shall levy all property and other taxes required to realize the income estimated.

F. *Amendments after adoption.*

(1) *Supplemental appropriations.* If, during the fiscal year, the Town Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

(2) *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations shall be made by ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may, by such emergency ordinance, authorize the issuance of tax anticipation notes.

(3) *Transfer of appropriations.* At any time during the fiscal year, the Town Manager may, with the approval of the Council, transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(4) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. A two-thirds vote of all members of the Town Council shall be required for the authorization of supplemental and emergency appropriations. (Res. No. 03-03-11, 5-24-11.)

Section C5-4. Overexpenditures.

No officer or employee shall, during any budget year, expend or contract to expend any money or incur any liability or enter into any contract which, by its terms, involves the expenditure of money for any purpose in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed, in whole or in part, by the issuance of bonds nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

Section C5-5. Lapse of appropriations.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. All unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year.

Section C5-6. Checks.

All checks issued in payment of municipal obligations shall be issued and signed by two members of the Town Council. (Res. No. 03-05-11, 5-24-11; Res. No. 03-06-11, 5-24-11.)

Section C5-7. Taxable property.

All real property and all tangible personal property within the corporate limits of the town or personal property which may have a situs there by reason of the residence of the owner therein shall be subject to taxation for municipal purposes, and the assessment used shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation by any act of the General Assembly.

Section C5-8. Tax levy.

A. *Budget authorizes levy.* From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year.

B. *Notice of levy.* Immediately after the Council makes the levy in each year, the Finance Officer shall give notice of the making of the levy by posting a notice thereof in some public place or places in the town. The Finance Officer shall provide for the mailing to each taxpayer, or a taxpayer's agent, at the taxpayer's or agent's last known address a bill or account of the taxes due from the taxpayer. The bill or account shall contain a statement of the amount of real and personal property with which the taxpayer is assessed, the rate of taxation, the amount of taxes due and the date on which the taxes will bear interest. Failure to give or receive any notice required by this section shall not relieve any taxpayer of the responsibility to pay on the dates established by this Charter, or otherwise by State law, all taxes levied on his property.

Section C5-9. Overdue Taxes.

Except to the extent that other dates may be specified by State law, the taxes provided for in § C5-7 of this Charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of two-thirds of one per cent (2/3%) or such higher rate as may be allowed by law, for each month or fraction of a month until paid. All taxes not paid and in arrears after the thirty-first (31) day of the following January shall be collected as provided in § C5-10.

Section C5-10. Tax sales.

A list of all property on which the town taxes have not been paid and which are in arrears, as provided by § C5-9 of this Charter, shall be turned over by the Finance Officer to the official of the county responsible for the sale of tax-delinquent property as provided in State law. All property listed thereon shall, if necessary, be sold for taxes by this county official in the manner prescribed by State law.

Section C5-11. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town.

Section C5-12. Audits.

The financial books and accounts of the town shall be audited annually by a certified public accountant.

Section C5-13. Borrowing power.

In addition to any other borrowing power which the town may presently have, from whatever source derived, and notwithstanding any other provision or limitation of public general or public local law:

A. The town may borrow money and incur indebtedness from time to time for any public purpose and evidence that borrowing or indebtedness by the sale and issuance of its general obligation bonds, tax anticipation notes or other evidences of indebtedness, hereinafter sometimes collectively referred to as “bonds,” in the manner hereinafter prescribed.

B. Bonds issued by the town shall be sold and issued in accordance with the terms and conditions of an ordinance or ordinances passed in conformity with §§ 31 to 39, inclusive, of Article 23A of the Annotated Code of Maryland (1973 Replacement Volume), as amended from time to time, title “Corporations — Municipal,” subtitle “Home Rule,” subheading “Creation of Municipal Public Debt”; provided, however, that the town may sell bonds at private sale without advertisement or publication of notice of sale or solicitation of competitive bids if the ordinance or ordinances authorizing the sale and issuance of the bonds shall so specify.

C. During the first six (6) months of any fiscal year, the town shall have the power to borrow in anticipation of the collection of the property tax levied for that fiscal year and to issue tax anticipation notes or other evidences of indebtedness as evidence of such borrowing. Such tax anticipation notes or other evidences of indebtedness shall be a first lien upon the proceeds of such tax and shall mature and be paid not later than six (6) months after the beginning of the fiscal year in which they are issued. No tax anticipation notes or evidences of indebtedness shall be issued which will cause the total tax anticipation indebtedness of the town to exceed fifty per centum (50%) of the property tax levy for the fiscal year in which such notes or other evidences of indebtedness are issued.

D. The town may pay the maturing principal of and interest on bonds, to the extent practicable, from the revenues, if any, of the particular project or improvement for which the bonds were issued, notwithstanding any limitation contained in any other law.

E. In addition to any other sources of payment for the principal of and interest on such bonds, the town may also pay the maturing principal of and interest on such bonds, in whole or in part, from the proceeds of such capital contribution charges, connection charges (including area connection charges related to the cost of base plant construction as well as the actual cost of connection), ready-to-serve charges, service charges, charges for upkeep and any other charges or impositions as the town may levy, impose and collect, from time to time, during the life of said bonds, the power and authority so to do being hereby granted notwithstanding any limitation contained in any other law.

F. In addition to any other sources of payment for the principal of and interest on such bonds, the town may also pay the maturing principal of and interest on such bonds, in whole or in part, from the proceeds of such front-foot benefit assessments as the town may levy,

impose and collect, from time to time, during the life of said bonds, the power and authority so to do being hereby specifically granted notwithstanding any limitation contained in any other law.

G. Ordinances authorizing general obligation bonds or certificates of indebtedness in excess of fifty per centum (50%) of the assessed valuation of town property for the fiscal year in which such evidence of indebtedness is issued shall be subject to the provisions of § C2-14E of this Charter. If the majority of the qualified voters of the town shall vote against such issuance, then another referendum shall not be held on the question of issuing bonds for the same public purpose until the expiration of one (1) year from the date upon which the issuance of said bonds shall have been so disapproved.

Section C5-14. Bonds; certificates of indebtedness; tax anticipation notes.

A. *Pledge of faith and credit of town.* All bonds, certificates of indebtedness or tax anticipation notes issued by the town pursuant to its Charter shall constitute pledges of the faith and credit of the town to the prompt payment, from the tax and other revenues described in the enabling ordinance, of the principal of and interest on said bonds, certificates of indebtedness or tax anticipation notes when due.

B. *Covenant to levy taxes.* If, at the time of the issuance of any such bonds, there shall be no Charter or statutory limit on the power of the town to levy property taxes, such pledge shall constitute a covenant on the part of the town issuing any such bonds to levy upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation ad valorem taxes in a rate and amount sufficient in each year in which any of said bonds are outstanding to provide for the payment of the principal of and the interest on such bonds.

C. *Effect of limitation on power to levy taxes.* If, at the time of issuance of any such bonds, there shall be a Charter or statutory limitation upon the power of the town to levy property taxes, then such pledge shall constitute a covenant on the part of the town to levy ad valorem taxes as above described within the limitations so prescribed by law.

D. *Covenants not affected by subsequent statute or Charter provision.* No Charter provision or statute adopted or enacted after the date of issue of bonds of the types described in Subsections B and C above which places a maximum limit on the rate at which property taxes may be imposed by the town or which removes any such limit theretofore existing shall be taken or construed as impairing or in any manner affecting the covenants of the town with respect to its bonds outstanding at the time any such Charter provision or statute shall become effective.

Section C5-15. Previous indebtedness.

All bonds, notes or other evidences of indebtedness validly issued by the town previous to the effective date of this Charter and all ordinances passed concerning them are hereby declared to be valid, legal and binding and of full force and effect as if herein fully set forth.

Section C5–16. Payment of bonds.

The town is hereby authorized to provide for the issuance of bonds payable as to principal and interest solely from the revenues of one (1) or more revenue-producing projects in the town, which bonds shall not constitute an indebtedness of the town to which its faith and credit or taxing power are pledged.

ARTICLE VI

Personnel

Section C6–1. Direction by Town Manager.

All departments, offices and agencies under the direction and supervision of the Town Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Town Manager. With the consent of the Council, the Town Manager may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them. (Res. No. 03-03-11, 5-24-11.)

Section C6–2. Personnel system.

A. *Merit principle.* All appointments and promotions of town officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

B. *Personnel Director.*

(1) There shall be a Personnel Director who shall administer the personnel system of the town. The Town Manager may serve as the Personnel Director.

(2) *Duties.* The Personnel Director shall prepare personnel rules. When approved by the Town Manager, the rules shall be proposed to the Council, and the Council may, by ordinance, adopt them with or without amendment. These rules shall provide for:

(a) The classification of all town positions, except those positions which the Council may exempt, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances.

(b) A pay plan for all town positions within the classified system.

(c) Methods for determining the merit and fitness of candidates for appointment or promotion.

(d) The policies and procedures regulating reduction in force and removal of employees.

- (e) The hours of work, attendance regulations and provisions for sick and vacation leave.
- (f) The policies and procedures governing persons holding provisional appointments.
- (g) The policies and procedures governing relationships with employee organizations.
- (h) Policies regarding in-service training programs.
- (i) Grievance procedures, including procedures for the hearing of grievances by the Council, which may render advisory opinions based on its findings to the Town Manager, with a copy to the aggrieved employee.
- (j) Other practices and procedures necessary to the administration of the town personnel system. (Res. No. 03-03-11, 5-24-11.)

Section C6-3. Legal officer.

There shall be a legal officer of the town, appointed by the Manger with the Council's consent, who shall serve as chief legal adviser to the Council, the Manager and all town departments, offices and agencies, shall represent the town in all legal proceedings and shall perform any other duties prescribed by this Charter or by ordinance.

Section C6-4. Prohibitions.

A. *Town employees prohibited from holding public office.* No officer or employee in the service of the town shall continue in such position after becoming elected to any public office in the town.

B. *Political soliciting.* No person shall orally, by letter or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any town political purpose whatever from any person holding a position in the service of the town.

C. *Political contributions.* No person holding a position in the service of the town shall make any contribution to the campaign funds of any political party or any candidate for public office in the town or take any part in the management, affairs or political campaign of any political party or candidate for public office in the town further than in the exercise of his right as a citizen to express his opinion and to cast his vote.

D. *Holding multiple offices.* No person shall hold more than one (1) town office or position at any one (1) time, nor shall any person holding any town office or position have outside business interest in commercial enterprises doing business with the town, unless otherwise stated in this Charter. For the purposes of this section, "town office or position" shall

mean all elective, appointive and classified positions of the town, with no distinction made between paid or unpaid positions.

Section C6–5. Conflicts of interest.

A. *Participation of municipal officer, employee or agent in matter involving financial interest.* No officer, employee or agent of any department, board, commission, authority or other public agency of the Town shall participate personally and substantially as a municipal officer, employee or agent, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which, to his knowledge, he or his spouse, parent, child under eighteen (18) years of age, brother or sister has a financial interest, as defined herein, or to which any firm, corporation, association or other organization in which he has a financial interest or in which he is serving as officer, director, trustee, partner or employee or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment is a party.

B. *Financial interest defined.* As used in this Article, the term “financial interest” shall mean:

(1) Ownership of any interest or involvement in any relationship from or as a result of which the owner has, within the past three (3) years, received or is presently or in the future entitled to receive more than five hundred dollars (\$500) per year;

(2) Ownership of more than three per centum (3%) of the invested capital or capital stock of any firm, corporation, association or other organization; or

(3) Ownership of securities or obligations of any type which are or may become equivalent to or convertible into ownership of more than three per centum (3%) of the invested capital of capital stock of any firm, corporation, association or organization. (Res. No. 03-06-11, 5-24-11.)

ARTICLE VII

Public Ways and Sidewalks

Section C7–1. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

PUBLIC WAYS — Includes all streets, avenues, roads, highways, public thoroughfares, lanes and alleys.

Section C7–2. Control.

The town shall have control of all public ways in the town, except such as may be under the jurisdiction of the Maryland State Highway Administration. Subject to the laws of the State of Maryland and this Charter, the town may do whatever it deems necessary to establish, operate and maintain in good condition the public ways of the town.

Section C7-3. Public ways.

The town shall have the power to:

- A. Establish, regulate and change, from time to time, the grade lines, width and construction materials of any town public way or part thereof, bridge, curb and gutter.
- B. Grade, lay out, construct, open, extend and make new town public ways.
- C. Grade, straighten, widen, alter, improve or close up any existing town public way or part thereof.
- D. Pave, surface, repave or resurface any town public way or part thereof.
- E. Install, construct, reconstruct, repair and maintain curbs and/or gutters along any town public way or part thereof.
- F. Construct, reconstruct, maintain and repair bridges.
- G. Name town public ways.
- H. Have surveys, plans, specifications and estimates made for any of the above activities or projects or parts thereof.

Section C7-4. Sidewalks.

The town shall have the power to:

- A. Establish, regulate and change from, time to time, the grade lines, width and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.
- B. Grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter sidewalks on town property along any public way or part thereof.
- C. Require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow and other obstructions.
- D. Require and order the owner of any property abutting on any public way in the town to perform any projects authorized by this section, at the owner's expense, according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order

within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

ARTICLE VIII

Water, Wastewater and Stormwater

Section C8-1. Powers of town.

The town shall have the power to:

- A. Construct, operate and maintain a water system and water plant.
- B. Construct, operate and maintain a wastewater collection system and a wastewater treatment plant.
- C. Construct, operate and maintain a stormwater drainage system and stormwater sewers.
- D. Construct, maintain, reconstruct, enlarge, alter, repair, improve and dispose of all parts, installations and structures of the above plants and systems.
- E. Have surveys, plans, specifications and estimates made for any of the above plants and systems or parts thereof or the extension thereof.
- F. Do all things it deems necessary for the efficient operation and maintenance of the above plants and systems. (Res. No. 03-07-11, 5-24-11.)

Section C8-2. Placement of structures in public ways.

Any public service corporation, company or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe or other structure in the public ways of the town, shall submit plans to the town and obtain written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure interferes with the operation of the water, wastewater or stormwater systems, the town may order it removed. (Res. No. 03-07-11, 5-24-11.)

Section C8-3. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits or other structures in, on or over any public way in the town or in the county which impede the establishment, construction or operation of any town wastewater or water main shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers

provided in § C10–2. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res. No. 03-07-11, 5-24-11.)

Section C8–4. Entering on county property.

The town may enter upon or do construction in, on or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate and maintain the water system, water plant, wastewater system, wastewater treatment plant or stormwater sewers provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before. (Res. No. 03-07-11, 5-24-11.)

Section C8–5. Connections.

A. The town shall provide a connection with water and wastewater mains for all property abutting on any public way in which a wastewater or water main is laid. When any water main or wastewater main is declared ready for operation by the town, all abutting property owners, after reasonable notice, shall connect all fixtures with the water or wastewater main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools, sink drains and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor.

B. The town may make a charge, the amount to be determined by the Council, for each connection made to the town's water or wastewater mains. This charge shall be uniform throughout the town but may be changed from year to year. Arrangements for the payment of this charge shall be made before the connection is made. (Res. No. 03-07-11, 5-24-11.)

Section C8–6. Improper use.

In order to prevent any leakage or waste of water or other improper use of the town's water system or wastewater system, the town may require such changes in plumbing, fixtures or connections as it deems necessary to prevent such waste or improper use. (Res. No. 03-07-11, 5-24-11.)

Section C8–7. Private systems.

The town may, by ordinance, provide that no water supply, wastewater or stormwater drainage system and no water or wastewater mains, drains or connections therewith shall be constructed or operated by any person or persons, firm, corporation, institution or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of wastewater disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health. Any cesspool or other private method of wastewater disposal affecting or likely to affect adversely the public comfort

and health may be deemed a nuisance and may be abated by the town. Any violation of an ordinance passed under the provisions of this section may be made a misdemeanor. (Res. No. 03-07-11, 5-24-11.)

Section C8–8. Extension beyond town boundaries.

The town shall have the power to extend its water or wastewater systems beyond the town limits. (Res. No. 03-07-11, 5-24-11.)

Section C8–9. Right of entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties with regard to the water or wastewater systems operated by the town, shall have the right of entry, for access to water or wastewater installations, at all reasonable hours and after reasonable advance notice to the owner, tenant or person in possession, upon any premises and into any building in the town or in the county served by the town's water or wastewater system. Any restraint or hindrance offered to such entry by any owner, tenant or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor. (Res. No. 03-07-11, 5-24-11.)

Section C8–10. Pollution.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the town water supply system. Any violation of the provisions of this section shall be a misdemeanor.

Section C8–11. Water contracts.

The town, if it deems it advisable, may contract with any party or parties, inside or outside the town, to obtain water or to provide for the removal of wastewater. (Res. No. 03-07-11, 5-24-11.)

Section C8–12. Charges.

The town shall have the power to charge and collect such service rates, water rents, availability charges or other charges as it deems necessary for water supplies and for the removal of wastewater and/or solid waste. These charges are to be billed and collected by the Finance Officer; and if bills are unpaid within thirty (30) days, the service may be discontinued. All charges shall be a lien on the property, collectible in the same manner as town taxes or by suit at law. (Res. No. 03-07-11, 5-24-11.)

ARTICLE IX Special Assessments

Section C9-1. Power of town.

The town shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction of water mains, wastewater mains, stormwater sewers, curbs and gutters and by the construction and paving of public ways and sidewalks or parts thereof and to provide for the payment of all or any part of the above projects out of the proceeds of such special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof; the cost of any land acquired for the project; the interest on bonds, notes or other evidences of indebtedness issued in anticipation of the collection of special assessments; a reasonable charge for the services of the administrative staff of the town; and any other item of cost which may reasonably be attributed to the project. (Res. No. 03-07-11, 5-24-11.)

Section C9-2. Procedure.

The procedure for special assessments, wherever authorized in this Charter, shall be as follows:

A. *Cost assessed.* The cost of the project being charged for shall be assessed according to the abutting-foot rule of apportionment or some other equitable basis determined by the Council.

B. *Maximum assessment.* The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property.

C. *Uniformity.* When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

D. *Levy; procedure.* All special assessment charges shall be levied by the Council by ordinance. Before levying any special assessment charges, the Council shall hold a public hearing. The Town Clerk shall cause notice to be given, stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the town. The Town Clerk shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the

proceedings. The date of hearing shall be set at least ten (10) and not more than thirty (30) days after the Town Clerk shall have completed publication and service of notice as provided in this section. Following the hearing, the Council, in its discretion, may vote to proceed with the project and may levy the special assessment.

E. *Appeals.* Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court of the county within ten (10) days after the levying of any assessment by the Council.

F. *Payment.* Special assessments may be made payable in annual or more-frequent installments over such period of time, not to exceed forty (40) years, and in such manner as the Council may determine. The Council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Council.

G. *Overdue.* All special assessment installments shall be overdue six (6) months after the date on which they become due and payable. All special assessments shall be liens on the property, and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

H. *Collection.* All special assessments shall be billed and collected by the Finance Officer. (Res. No. 03-04-11, 5-24-11.)

ARTICLE X

Town Property

Section C10-1. Acquisition; possession; disposal.

The town may acquire real, personal or mixed property within the corporate limits of the town for any public purpose by purchase, gift, bequest, devise, lease condemnation or otherwise and may sell, lease, or otherwise dispose of any property belonging to the town. All municipal property, funds and franchises of every kind belonging to or in possession of the town, by whatever name known, on the effective date of this Charter are vested in the town, subject to the terms and conditions thereof.

Section C10-2. Condemnation.

The town shall have the power to condemn property of any kind or interest therein or franchise connected therewith in fee or as an easement, within the corporate limits of the town, for any public purpose. Any activity, project or improvement authorized by the provisions of this Charter or any other State law applicable to the town shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceedings shall be that established in Article 12 of the Real Property Article of the Annotated Code of Maryland.

Section C10-3. Town buildings.

The town shall have the power to acquire, obtain by lease or rent, purchase, construct, operate and maintain all buildings and structures as it deems necessary for the operation of the town government.

Section C10-4. Protection.

The town shall have the power to do whatever may be necessary to protect town property and to keep all town property in good condition.

ARTICLE XI

Miscellaneous Provisions

Section C11-1. Oath of office.

A. *Required: text.* Before entering upon the duties of their offices, the Council members, the Mayor, the members of the Board of Supervisors of Elections and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe the following oath or affirmation:

“I, _____, do swear (or affirm, as the case may be) that I will support the Constitution of the United States and that I will be faithful and bear true allegiance to the State of Maryland and support the Constitution and laws thereof and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of _____ according to the Constitution and laws of this State.”

B. *How subscribed.* The Mayor shall take and subscribe this oath or affirmation before the Clerk of the Circuit Court for Charles County or before one (1) of the sworn deputies of the Clerk. All other persons taking and subscribing the oath shall do so before the Mayor. If the Mayor is incapacitated, all Councilmen shall be sworn in by the Clerk of the Circuit Court or before a designated deputy of the Clerk.

C. *Official bonds.* The Finance Officer and such other officers or employees of the town as the Council or this Charter may require shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the town.

Section C11-2. Prior rights and obligations.

All rights, title and interest held by the town or any other person or corporation on the effective date of this Charter, in and to any lien acquired under any prior Charter of the town are hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing on the effective date of this Charter. All suits and actions, both civil and criminal, pending or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or

ordinance repealed by this Charter shall be instituted, proceeded with and prosecuted to, final determination and judgment as if this Charter had not become effective.

Section C11-3. Effect on existing ordinances.

A. *Not in conflict.* All ordinances, resolutions, rules and regulations in effect in the town on the effective date of this Charter, which are not in conflict with the provisions of this Charter shall remain in effect until changes or repealed according to the provisions of this Charter.

B. *In conflict.* All ordinances, resolutions, rules and regulations in effect in the town on the effective date of this charter, which are in conflict with the provisions of this Charter are repealed to the extent of such conflict.

Section C11-4. Severability.

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of a section so held invalid shall appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding shall directly apply.

Section C11-5. Violations and penalties.

Any person who fails to perform any duty required of him under the provisions of this Charter or any ordinances passed thereunder, in any manner willfully or corruptly violates any of the provisions of this Charter or any ordinances passed thereunder or willfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination or town election is guilty of a misdemeanor. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately, upon conviction thereof, cease to hold such office or employment.